

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JAMES TONEY,

Plaintiff(s),

vs.

MICHAEL HAKALA, et al.,

Defendant(s).

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Case No. 4:10CV2056 JCH

ORDER

This matter is before the Court on Plaintiff's Motion for Leave to File an Amended Complaint, filed April 7, 2011. (Doc. No. 49). In his proposed Amended Complaint, Plaintiff states the pleading does not supersede Plaintiff's original Complaint, but relates back to such Complaint. Under Eighth Circuit law, however, the filing of an Amended Complaint completely replaces the original Complaint, and claims that are not re-alleged are deemed abandoned. See, e.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation, 396 F.3d 922, 928 (8th Cir. 2005). In light of these circumstances, the Court will deny Plaintiff's motion without prejudice, in order to allow him the opportunity to move for leave to file an Amended Complaint stating all his claims in one pleading.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Leave to File an Amended Complaint (Doc. No. 49) is **DENIED** without prejudice.

Dated this 15th day of April, 2011.

/s/ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE